

REMARKS

Applicants have received and carefully reviewed the Final Office Action of the Examiner mailed January 9, 2008. Currently, claims 1-20 remain pending and stand rejected. Favorable consideration of the following remarks is respectfully requested.

In the Office Action, the oath or declaration was noted as defective as not being in compliance with 37 C.F.R. § 1.67(a). On January 22, 2008, a Notice was posted on the USPTO Website regarding the Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications. In the Notice, it was stated that for pending applications, "the Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008." Applicants respectfully traverse the objection and request that this objection be withdrawn.

Applicants have received initialed PTO-Forms 1449 which has been submitted on May 17, 2004 and May 11, 2005 confirming consideration of cited art. Applicants thank the Examiner for consideration of the non-patent art and the enclosed copy of the Form PTO-1449 initialed by the Examiner showing that it was considered.

Claims 1-5 and 6-9 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Saab (U.S. 5,499,973) in view of Lee (U.S. 6,217,547). Applicants respectfully traverse the rejection.

Independent claim 1 recites:

A balloon catheter assembly comprising:
a first tubular member having a proximal portion and a distal portion with a lumen extending between the proximal portion and the distal portion;
a balloon having a proximal waist length, a distal waist length and an expandable region therebetween disposed about the distal portion; and
a tie layer disposed between the proximal waist length or distal waist length and the first tubular member, wherein the tie layer comprises a polyester polymer and a polyamide polymer.

The Examiner asserts that Saab provides all elements of independent claim 1 except wherein the tie layer comprises a polyester polymer and a polyamide polymer. The Examiner relies on Lee to provide this element. However, Lee does not teach the use of a polyester polymer in combination with a polyamide polymer.

Lee discloses blending *either* a polyester polymer *or* a polyamide polymer to be with a more lubricious polymer to form a polymeric blend. The polymeric blend is then used to form the catheter shaft or a portion of the catheter shaft. While Lee does disclose the use of polyamide polymer and polyester polymer in *separate* embodiments, Lee does not disclose or suggest the simultaneous use of a polyester polymer and a polyamide polymer as is currently claimed or that the combination would result in superior bonding capabilities.

Even if one were to combine the devices of Saab and Lee, one would not arrive at the invention as currently claimed. One would simply have the device of Saab wherein the polymeric sleeve is composed of a polymeric blend containing either a polyester polymer or a polyamide polymer blended with a more lubricious polymer. One would not arrive at a tie layer comprised of a polyester polymer and a polyamide polymer. Further, there is no motivation or suggestion for one of ordinary skill in the art to combine the device of Saab with the polymeric blend of Lee to achieve the present invention.

As discussed above, Saab does not disclose a tie layer wherein the tie layer comprises a polyester polymer and a polyamide polymer. Lee does not remedy this shortcoming. Reconsideration and withdrawal of the rejection are respectfully requested. Applicants submit that claims 2-9 are also in condition for allowance as they depend from claim 1 and add significant limitations to further distinguish them from the prior art.

Claims 10 and 11-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Saab (U.S. 5,499,973) in view of Lee (U.S. 6,217,547). Applicants respectfully traverse the rejection.

Independent claim 10 recites:

- A balloon catheter assembly comprising:
 - a first polyamide tubular member having a proximal portion and a distal portion with a lumen extending between the proximal portion and the distal portion;
 - a polyethylene terephthalate balloon having a proximal waist length, a distal waist length and an expandable region therebetween disposed about the distal portion; and
 - a tie layer disposed between the proximal waist length or distal waist length and the first tubular member, wherein the tie layer comprises a polyester polymer and a polyamide polymer.

As discussed above with respect to claim 1, Saab does not teach a tie layer comprised of a polyester polymer and a polyamide polymer. In addition, Lee does not supply the elements of the claims that are missing from Saab. Reconsideration and withdrawal of the rejection are respectfully requested. Applicants submit that claims 11-14 are also in condition for allowance as they depend from claim 10 and add significant limitations to further distinguish them from the prior art.

Claims 15 and 16-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Saab (U.S. 5,499,973) in view of Lee (U.S. 6,217,547). Applicants respectfully traverse the rejection.

Independent claim 15 recites:

A method for improved bonding between an expandable balloon and a catheter shaft, the method comprising the steps of:

providing a first polyamide tubular member having a proximal portion and a distal portion with a lumen extending between the proximal portion and the distal portion;

disposing a tie layer on the distal portion of the first polyamide tubular member, wherein the tie layer comprises a polyester polymer and a polyamide polymer; and

disposing a polyethylene terephthalate balloon having a proximal waist length, a distal waist length and an expandable region therebetween on the tie layer.

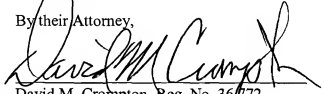
As discussed above with respect to claims 1 and 10, Saab does not teach a tie layer comprised of a polyester polymer and a polyamide polymer. In addition, Lee does not supply the elements of the claims that are missing from Saab. Thus neither Saab nor Lee, individually or in combination, can be considered as disclosing a method that involves disposing a tie layer comprised of a polyester polymer and a polyamide polymer on the first polyamide tubular member. Reconsideration and withdrawal of the rejections are respectfully requested. Applicants submit that claims 16-20 are also in condition for allowance as they depend from claim 15 and add significant limitations to further distinguish them from the prior art.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

John Chen et al.

By their Attorney,

A handwritten signature in black ink, appearing to read "David M. Crompton", is written over a horizontal line.

David M. Crompton, Reg. No. 36772
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420
Telephone: (612) 677-9050
Facsimile: (612) 359-9349

Date: 03/07/08